

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

BAYTREE CAPITAL ASSOCIATES, LLC  
derivatively on behalf of BROADCASTER, INC.

SUMMONS IN A CIVIL ACTION

V.

NOLAN QUAN, et al.

CASE NUMBER:

08 CV 1602

JUDGE STANTON

TO: (Name and address of Defendant)

Broadcaster, Inc.  
9201 Oakdale Avenue  
Suite 200  
Chatsworth, CA 91311

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Sullivan Gardner, PC  
475 Park Avenue South  
New York, New York 10016  
(212) 687-5900

an answer to the complaint which is served on you with this summons, within 30 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

FEB 15 2008

CLERK

DATE

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

| <b>RETURN OF SERVICE</b>  |          |              |
|---|----------|--------------|
| Service of the Summons and complaint was made by me <sup>(1)</sup>  | DATE     |              |
| NAME OF SERVER ( <i>PRINT</i> )   | TITLE    |              |
| <i>Check one box below to indicate appropriate method of service</i>  |          |              |
| <div style="margin-bottom: 10px;"> <input type="checkbox"/> Served personally upon the defendant. Place where served: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.<br/> Name of person with whom the summons and complaint were left: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Returned unexecuted: </div> <div> <input type="checkbox"/> Other (specify): </div> |          |              |
| <b>STATEMENT OF SERVICE FEES</b>  |          |              |
| TRAVEL  | SERVICES | TOTAL \$0.00 |
| <b>DECLARATION OF SERVER</b>  |          |              |
| <p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ Date _____ Signature of Server _____</p> <p style="text-align: center;">_____<br/>Address of Server</p>  |          |              |

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

BAYTREE CAPITAL ASSOCIATES, LLC DERIVATIVELY ON BEHALF OF  
BROADCASTER, INC. *Plaintiff(s) Petitioner(s)*

*against*

NOLAN QUAN, ETAL

*Defendant(s) Respondent(s)*

Calendar No.

1~ AFFIDAVIT  
OF  
SERVICE

STATE OF DELAWARE, COUNTY OF: NEW CASTLE

Ss.:

The undersigned, being sworn, says: Deponent is not a party herein, is over 18 years of age and resides at Wilmington, DE

On 3/11/08

at 3:30 PM

.M., at

C/O USA CORPORATE SERVICES 3500 S. DUPONT HWY. DOVER, DE

deponent served the within

☒ summons and complaint

☐ subpoena duces tecum

☐ citation

on BROADCASTER, INC

☒ defendant

☐ witness

hereinafter called

therein

☐ -espondent

the recipient

lamed

INDIVIDUAL

1. ☐

by delivering a true copy of each to said recipient personally; deponent knew the person so served to be the person described as said recipient therein.

CORPORATION

2. ☒

a DELAWARE corporation, by delivering thereat a true copy of each to SUSAN WARTZ

personally, deponent knew said corporation so served to be the corporation, described in same as said recipient and knew said individual to be PROCESS AGENT thereof

SUITABLE  
AGE PERSON

3. ☐

by delivering thereat a true copy of each to a person of suitable age and discretion. Said premises is recipient's ☐ actual place of business ☐ dwelling place ☐ usual place of abode within the state.

AFFIXING TO  
DOOR, ETC.

4. ☐

by affixing a true copy of each to the door of said premises, which is recipient's ☐ actual place of business ☐ dwelling place ☐ usual place of abode within the state. Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, thereat, having called there

MAILING TO  
RESIDENCE  
USE WITH 3 OR 4

5A. ☐

Deponent talked to at said premises who stated that recipient ☐ lived ☐ worked there.

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed to recipient at recipient's last known residence, at and deposited

said envelope in an official depository under exclusive care and custody of the U.S. Postal Service within New York State.

MAILING TO  
BUSINESS  
USE WITH 3 OR 4

5B. ☐

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a first class post paid envelope properly addressed to recipient at recipient's actual place of business, at

in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the recipient.

DESCRIPTION

☐

|  |  |  |                                     |  |   |  |
|--|--|--|-------------------------------------|--|---|--|
| <input type="checkbox"/> Male              | <input checked="" type="checkbox"/> White Skin | <input checked="" type="checkbox"/> Black Hair | <input type="checkbox"/> White Hair | <input type="checkbox"/> 14-20 Yrs.                | <input type="checkbox"/> Under 5'             | <input type="checkbox"/> Under 100 Lbs.          |
| <input checked="" type="checkbox"/> Female | <input type="checkbox"/> Black Skin            | <input type="checkbox"/> Brown Hair            | <input type="checkbox"/> Balding    | <input type="checkbox"/> 21-35 Yrs.                | <input type="checkbox"/> 5'0"-5'3"            | <input type="checkbox"/> 100- 130 Lbs.           |
|  | <input type="checkbox"/> Yellow Skin           | <input type="checkbox"/> Blonde Hair           | <input type="checkbox"/> Mustache   | <input checked="" type="checkbox"/> 36-50 Yrs.     | <input checked="" type="checkbox"/> 5'4"-5'8" | <input checked="" type="checkbox"/> 131-160 Lbs. |
|  | <input type="checkbox"/> Brown Skin            | <input type="checkbox"/> Gray Hair             | <input type="checkbox"/> Beard      | <input type="checkbox"/> 51-65 Yrs.                | <input type="checkbox"/> 5'9"-6'0"            | <input type="checkbox"/> 161-200 Lbs.            |
|  | <input type="checkbox"/> Red Skin              | <input type="checkbox"/> Red Hair              | <input type="checkbox"/> Glasses    | <input type="checkbox"/> Over 65 Yrs. [- I Over 6' |   | <input type="checkbox"/> Over 200 Lbs.           |

☐

Other identifying features:

WITNESS  
FEES

☐

\$ the authorizing traveling expenses  
and one days' witness fee:

☐ was paid (tendered) to the recipient

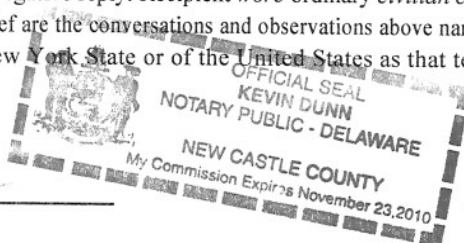
☐ was mailed to the witness with subpoena copy.

MILITARY  
SERVICE

☐

I asked the person spoken to whether recipient was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. Recipient wore ordinary civilian clothes and no military uniform. The source of my information and the grounds of my belief are the conversations and observations above narrated. Upon information and belief I aver that the recipient is not in military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

Sworn to before me on 3/11/08



License No.

GRANVILLE MORRIS